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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID MEYER, et. al.

Plaintiff,

vs.

CAPITAL ALLIANCE GROUP, et. al.,

Defendants.

Case No.: 15-CV-2405-WVG

**PLAINTIFFS' SEPARATE
STATEMENT OF MATERIAL
FACTS IN DISPUTE IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO PARTIAL
SUMMARY JUDGMENT BY
DEFENDANTS**

Hon. William V. Gallo
Hearing Sept 18, 2017, 2:00 pm

INTRODUCTION

Pursuant to the Federal Rules of Civil Procedure Rule 56 and Local Rule 7.1.f.1, Plaintiffs Kenneth Moser, Arnie Katz and DCM Properties, Inc., hereby submit this Separate Statement of Disputed Facts in support of their Opposition to Defendants' Partial Summary Judgment. Below establishes that that there are material facts that are in dispute and therefore the Court should not grant the Partial Summary Judgment by the Defendants.

NOTE REGARDING PLAINTIFFS' DECLARATIONS

The Declaration of Arnie Katz and David Meyer are essentially the same declarations that were attached to the Plaintiff's Motion for Partial Summary Judgment, however the paragraphs/exhibits concerning liability have been removed in order to shorten them to what is relevant to this opposition.

SEPARATE STATEMENT OF UNDISPUTED FACT

Plaintiff contends there is no genuine issue as to the following material facts:

DISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
1. Plaintiff Arnie Katz received facsimiles from the Defendants.	Exhibit A. Declaration of Arnie Katz ("Decl. Katz") ¶14-15
2. Plaintiff DCM Properties received facsimiles from the Defendants.	Declaration of David Meyer ("Decl Meyer") ¶4-6
3. Plaintiff Kenneth Moser received facsimiles from the Defendants.	Declaration of Kenneth Moser ("Decl. Moser") ¶3-7
4. Plaintiff Kenneth Moser received pre-recorded message telemarketing phone calls from the Defendants.	Decl. Moser ¶10-17
5. DCM Properties has a physical facsimile machine	Decl Meyer ¶4
6. DCM Properties receive a facsimile the machine prints with ink and on paper, which is property of DCM Properties	Decl Meyer ¶5
7. Plaintiff Arnie Katz printed out the facsimiles that he received from Defendants	Decl. Katz ¶12

1	8. Plaintiff Kenneth Moser printed out	Decl. Moser ¶6
2	the facsimiles that he received from	
3	Defendants	
4	9. Plaintiff Kenneth Moser suffered	Decl. Moser ¶18
5	inconvenience and annoyance from the	
6	phone calls.	
7	10. Plaintiff Kenneth Moser has lost his	Decl. Moser ¶22
8	time that was wasted on the phone calls,	
9	and lost opportunity costs in that his	
10	phone line was tied up by these calls	
11	11. The illegal faxes and phone calls	Decl. Moser ¶18
12	caused Plaintiff Kenneth Moser	
13	annoyance and frustration.	
14	12. Plaintiff Kenneth Moser was	Decl. Moser ¶21
15	agitated by the illegal facsimiles.	
16	13. Plaintiff Kenneth Moser was	Decl. Moser ¶22
17	agitated by the pre-recorded	
18	telemarketing phone calls.	
19	14. The illegal pre-recorded	Decl. Moser ¶23
20	telemarketing phone calls wasted	
21	Plaintiff Kenneth Moser's time.	

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23 DATED: September 4, 2017

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26 /s/ Christopher J. Reichman
27 By: Christopher J. Reichman, Esq.
28 **Prato & Reichman, APC**
Attorneys for Plaintiffs